

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4230 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JANAK V MEHTA

Versus

SUPERINTENDENT

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Appearance:

MR JM JOSHI for Petitioners

MR SP SEN for Respondent No. 1, 3

MS HARSHA DEVYANI for Respondent No. 4

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/11/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioners, in all ten, who were at the relevant time prosecuting their studies for post graduation in opthomology, filed this special civil application and challenge has been made to the order annexure 'A' dated 17th October, 1984 of the respondent

No.1 under which one month's stipend of the petitioners was ordered to be forfeited.

3. The petitioners remained absent from duties since 8:00 a.m. of 17th October, 1984 without obtaining prior sanction. So the petitioners have violated condition No.4 of the agreement made in special civil application No.3930/83 filed in this Court. It was also a violation of condition No.2 of the appointment of the petitioners for the term July-December, 1984. So when it is a case of violation of condition as agreed upon by the petitioners as well as of their appointment, the order impugned in this special civil application cannot be said to be illegal or arbitrary. The petitioners under condition No.2 of their appointment have undertaken not to abstain from duty or withdraw from work except on leave duly sanctioned by the competent authority. That condition has clearly been violated by the petitioners. Similarly, the condition No.4 of the agreement which has been filed before this Court in special civil application No.3930/83 provides that the resident doctors undertake not to abstain from duty or withdraw from work except on leave duly sanctioned by the competent authority. This condition is identical to the condition No. 2 of their appointment. So when the petitioners have violated the term of the agreement entered into before this Court as well as their appointment order, the respondent No.1 was perfectly legal and justified to order for forfeiture of one month's stipend. No interference is called for in the order impugned in this special civil application.

4. In the result, this special civil application is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

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